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HOUSE BILL 883

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben Lujan

AN ACT

**RELATING TO HOUSING; ENACTING THE AFFORDABLE HOUSING ACT TO
IMPLEMENT THE FUNDING FOR AFFORDABLE HOUSING PERMITTED PURSUANT
TO ARTICLE 9, SECTION 14 OF THE CONSTITUTION OF NEW MEXICO.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Affordable Housing Act".

Section 2. PURPOSE. -- The purpose of the Affordable
Housing Act is to implement the provisions of Subsection F of
Section 14 of Article 9 of the constitution of New Mexico.

Section 3. DEFINITIONS. -- As used in the Affordable
Housing Act:

**A. "affordable housing" means primarily residential
housing for persons or households of low- or moderate-income;**

B. "authority" means the New Mexico mortgage

1 finance authority;

2 C. "building" means a structure capable of being
3 renovated or converted into affordable housing or a structure
4 that is to be demolished and is located on land donated for use
5 in connection with an affordable housing project;

6 D. "household" means one or more persons occupying
7 a housing unit;

8 E. "housing assistance grant" means the donation by
9 the state, a county or a municipality of:

10 (1) land for construction of an affordable
11 housing project;

12 (2) an existing building for conversion or
13 renovation as affordable housing; or

14 (3) the costs of infrastructure necessary to
15 support affordable housing;

16 F. "infrastructure" means infrastructure
17 improvements and infrastructure purposes;

18 G. "infrastructure improvement" means:

19 (1) sanitary sewage systems, including
20 collection, transport, storage, treatment, dispersal, effluent
21 use and discharge;

22 (2) drainage and flood control systems,
23 including collection, transport, diversion, storage, detention,
24 retention, dispersal, use and discharge;

25 (3) water systems for domestic purposes,

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1 including production, collection, storage, treatment,
2 transport, delivery, connection and dispersal;

3 (4) areas for motor vehicle use for travel,
4 ingress, egress and parking;

5 (5) trails and areas for pedestrian,
6 equestrian, bicycle or other nonmotor vehicle use for travel,
7 ingress, egress and parking;

8 (6) parks, recreational facilities and open
9 space areas for the use of residents for entertainment,
10 assembly and recreation;

11 (7) landscaping, including earthworks,
12 structures, lakes and other water features, plants, trees and
13 related water delivery systems;

14 (8) electrical transmission and distribution
15 facilities;

16 (9) natural gas distribution facilities;

17 (10) lighting systems;

18 (11) cable or other telecommunications lines
19 and related equipment;

20 (12) traffic control systems and devices,
21 including signals, controls, markings and signs; and

22 (13) inspection, construction management and
23 program management costs in connection with the furnishing of
24 the items listed in this subsection;

25 H. "infrastructure purpose" means:

. 143764. 2

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1 (1) planning, design, engineering,
2 construction, acquisition or installation of infrastructure,
3 including the costs of applications, impact fees and other
4 fees, permits and approvals related to the construction,
5 acquisition or installation of the infrastructure;

6 (2) acquiring, converting, renovating or
7 improving existing facilities for infrastructure, including
8 facilities owned, leased or installed by an owner;

9 (3) acquiring interests in real property or
10 water rights for infrastructure, including interests of an
11 owner; and

12 (4) incurring expenses incident to and
13 reasonably necessary to carry out the purposes specified in
14 this subsection;

15 I. "municipality" means an incorporated city, town
16 or village, whether incorporated under general act, special act
17 or special charter, incorporated counties and H class counties;
18 and

19 J. "residential housing" means any building,
20 structure or portion thereof that is primarily occupied, or
21 designed or intended primarily for occupancy, as a residence by
22 one or more households and any real property that is offered
23 for sale or lease for the construction or location thereon of a
24 building, structure or portion thereof. "Residential housing"
25 includes congregate housing, manufactured homes and housing

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1 intended to provide or providing transitional or temporary
2 housing for homeless persons.

3 Section 4. REQUIREMENT FOR SPECIFIC LAW AUTHORIZING A
4 HOUSING ASSISTANCE GRANT FROM STATE. --The state may make a
5 housing assistance grant only by legislative enactment of a law
6 authorizing the grant, stating its purpose and appropriating
7 the amount of the grant to the department of finance and
8 administration for disbursement by the authority to a specified
9 grantee in accordance with rules promulgated by the authority
10 and approved by the Mortgage Finance Authority Act oversight
11 committee. Rules adopted by the authority may include
12 provisions for matching or using local, private or federal
13 funds in connection with a specific grant, but the authorizing
14 law shall not require or prohibit matching or using federal
15 funds.

16 Section 5. REQUIREMENT FOR ENACTMENT OF ORDINANCE BY
17 COUNTY OR MUNICIPALITY AUTHORIZING A HOUSING ASSISTANCE
18 GRANT. --

19 A. A county or municipality may make a housing
20 assistance grant only by enactment by its governing body of an
21 ordinance authorizing the grant, stating its purpose and
22 authorizing its transfer or disbursement to a specified grantee
23 pursuant to a budget to be submitted to and approved by the
24 governing body. The ordinance may provide for matching or
25 using local, private or federal funds either through direct

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1 participation with a federal agency pursuant to federal law or
2 through indirect participation through the authority. The
3 ordinance shall be submitted to the authority, which shall
4 approve it if it adequately ensures that the recipients of the
5 grant meet the requirements of the Affordable Housing Act and
6 the regulations promulgated by the board at the time of the
7 award and throughout the term of the grant. The ordinance
8 shall be effective when approved by the authority subject to
9 local ordinance requirements for publication or filing.

10 B. A school district may transfer land owned by the
11 district to a municipality or county to be further granted as
12 part or all of an affordable housing grant if the district and
13 the local government governing board enter into a contract that
14 provides the school district with a negotiated number of
15 affordable housing units that will be reserved for employees of
16 the district.

17 Section 6. APPLICATION FOR AND AWARD OF AFFORDABLE
18 HOUSING GRANTS. --

19 A. State housing assistance grants shall be applied
20 for and awarded pursuant to rules promulgated by the authority
21 subject to the requirements of Section 4 of the Affordable
22 Housing Act. Local housing assistance grants shall be applied
23 for and awarded pursuant to rules promulgated by the authority
24 subject to the requirements of Section 5 of the Affordable
25 Housing Act.

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1 B. The authority shall adopt rules covering the
2 following issues and subjects:

3 (1) procedures to ensure that both state and
4 local housing assistance grantees meet requirements of the
5 Affordable Housing Act and rules promulgated pursuant to that
6 act both at the time of the award and throughout the term of
7 the grant;

8 (2) the establishment of an application and
9 award timetable for state housing assistance grants to permit
10 the selection of the potential grantee prior to January of the
11 year in which the grant would be made;

12 (3) a requirement for long-term affordability
13 of a state or local project so that a project cannot be sold
14 shortly after completion and taken out of the affordable
15 housing market to ensure a quick profit for the grantee;

16 (4) a requirement that a grant for a state or
17 local project must establish a contractual obligation on the
18 grantee for the housing units in the project to be occupied by
19 low- or moderate-income households;

20 (5) a requirement that for projects of a
21 designated size a cost-benefit or similar analysis must be
22 completed and submitted as part of the application process;

23 (6) provisions for adequate security against
24 the loss of public funds or property in the event that the
25 grantee abandons or otherwise fails to complete the project;

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1 (7) a requirement for review and approval of a
2 housing grant project budget by the grantor before any
3 expenditure of grant funds or transfer of granted property;

4 (8) a requirement that, unless the period is
5 extended for good cause shown, the authority shall act on
6 applications within forty-five days of the date of receipt and,
7 if not acted upon, the application shall be deemed approved;

8 (9) a requirement that a condition of grant
9 approval be proof of compliance with all applicable state and
10 local laws, rules and ordinances;

11 (10) provisions defining "low- and moderate-
12 income" and setting out requirements for verification of income
13 levels; and

14 (11) a requirement that a county or
15 municipality that makes a housing assistance grant shall have
16 an existing valid affordable housing plan or housing elements
17 contained in its general plan.

18 C. In addition to the rule-making mandated in
19 Subsection B of this section, the authority may adopt
20 additional rules to carry out the purpose of the Affordable
21 Housing Act.